

CALIFORNIA COASTAL COMMISSION

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**W 17c**

April 20, 2006

TO: Commissioners & Interested Persons

FROM: Deborah Lee, Senior Deputy Director
Teresa Henry, District Manager
Karl Schwing, Supervisor Permits and Planning, Orange County
Meg Vaughn, Staff Analyst

SUBJECT: **CITY OF HUNTINGTON BEACH**
LOCAL COASTAL PROGRAM AMENDMENT 1-04

Scheduled for Public Hearing and Commission Action at the meeting of May 10-12, 2006 at the Westin South Coast Plaza, 686 Anton Blvd., Costa Mesa.

SUMMARY OF AMENDMENT REQUEST:

Request by City of Huntington Beach to modify the Huntington Harbour Bay Club Specific Plan by 1) reconfiguring the boundaries of the four lettered planning areas (A –D); 2) eliminating restaurant/banquet facilities and recreational uses as allowable uses within Planning Area B, and replacing those uses with residential uses instead; 3) adding development standards for the residential development use proposed in Planning Area B; and, 4) updating the overall format of the Specific Plan. The amendment request effects the Implementation Plan portion of the certified Local Coastal Program.

SUMMARY OF STAFF RECOMMENDATION:

Staff recommends denial of the Implementation Plan amendment because it is not in conformity with nor adequate to carry out the provisions of the certified Land Use Plan.

Staff is recommending denial of the Implementation Plan amendment request because the amendment would allow an area designated in the certified Specific Plan for public recreational and restaurant/banquet facilities to be redesignated to lower priority residential use. The loss of the public recreational and restaurant/banquet facilities, which can provide visitor serving uses, would adversely effect the public access uses on site. Staff believes the proposed amendment is inconsistent with the public access and priority of uses policies of the certified Land Use Plan. The subject site fronts on Huntington Harbour. The subject site is significant because, other than Peter's Landing, there are extremely few uses available to the general public that front on the waters of Huntington Harbour.

The motion to accomplish the staff recommendation is found on page 3.

Additional Information:

Copies of the staff report are available at the South Coast District Office of the Coastal Commission and on the Commission's web site: www.coastal.ca.gov. To obtain copies of the staff report by mail, or for additional information, contact Meg Vaughn at the above address and telephone number.

STANDARD OF REVIEW:

For the proposed Implementation Plan amendment, the standard of review is conformance with and adequacy to carry out the provisions of the certified Huntington Beach Land Use Plan.

SUMMARY OF PUBLIC PARTICIPATION:

Section 30503 of the Coastal Act requires public input in Local Coastal Program development. It states:

During the preparation, approval, certification, and amendment of any local coastal program, the public, as well as all affected governmental agencies, including special districts, shall be provided maximum opportunities to participate. Prior to submission of a local coastal program for approval, local governments shall hold a public hearing or hearings on that portion of the program which has not been subjected to public hearings within four years of such submission.

The City of Huntington Beach Planning Commission held a public hearing regarding Local Coastal Program Amendment 1-04 on February 24, 2004. In addition, the City of Huntington Beach City Council held a public hearing regarding Local Coastal Program Amendment 1-04 on April 5, 2004. The public hearings were advertised in the City's local newspaper (Huntington Beach Independent) and notice was sent to property owners, occupants and interested parties. All staff reports were made available for public review in the City's Department of Community Development and the Huntington Beach Public Library. Five people spoke at the Planning Commission public hearing. Two speakers were in favor of the proposed project. Three speakers were opposed to the project expressing concerns ranging from the reduction in access to the harbor and reduction of the amount of commercial development in the area, parking concerns, to impacts to private views, and poor water quality due to marina live-aboards. Eight people spoke at the City Council hearing. Five spoke in favor and three were opposed. The concerns of those opposed included parking and safety issues and concerns with loss of public use at the site.

I. MOTION AND RESOLUTION FOR DENIAL OF THE AMENDMENT TO THE LCP IMPLEMENTATION PLAN AS SUBMITTED

MOTION

"I move that the Commission reject the Implementation Plan Amendment No. 1-04 to the City of Huntington Beach LCP as submitted."

Staff recommends a **YES** vote. Passage of this motion will result in rejection of the Implementation Program Amendment and the adoption of the following resolution and findings. The motion passes only by an affirmative vote of a majority of the appointed Commissioners present.

Resolution to reject the amendment to the Implementing Actions as submitted

The Commission hereby denies certification of the Implementation Plan Amendment for the City of Huntington Beach certified Local Coastal Program and adopts the findings set forth below on grounds that the Implementation Plan Amendment, as submitted, does not conform with, or is inadequate to carry out, the provisions of the Land Use Plan as certified. Certification of the Implementation Plan Amendment would not meet the requirements of the California Environmental Quality Act as there are feasible alternatives or mitigation measures available that would substantially lessen any significant adverse impacts on the environment that will result from certification of the Implementation Program Amendment as submitted.

II. FINDINGS FOR DENIAL OF THE IMPLEMENTATION PLAN AMENDMENT

A. Implementation Plan Amendment Description

The proposed Implementation Plan amendment would change the uses allowed at a waterfront site on Huntington Harbour. The proposed amendment would eliminate the currently allowed public uses (recreation and banquet/restaurant) and replace them with lower priority private residential use. Loss of the restaurant/banquet facility and recreation use at the site is significant in this case due to the dearth of public uses within Huntington Harbour. It would also adversely effect the existing public uses available at the site (public walkway along the bulkhead and sandy beach area). Specifically, the proposed amendment would replace the certified Huntington Harbour Bay Club Specific Plan in its entirety with a revised an updated version. In addition to the change in use, the revised Specific Plan would reconfigure the boundaries of the four lettered planning areas (A –D), add development standards for the newly proposed residential use in Planning Area B, and update the overall format of the Specific Plan.

The amended Specific Plan would allow the proposed residential area to be developed with up to 11 detached single family residences on 1.6 acres (all within the proposed

boundaries of Planning Area B). Development of the contemplated residences would require the demolition of the existing banquet facility, tennis courts, and changing rooms. Thus, the proposed amendment would result in the loss of the existing recreation and banquet/restaurant facility within the Specific Plan area.

The proposed LCP amendment would also provide new development standards for the proposed residential use within Planning Area B. Development standards for Planning Areas C and D would remain essentially as they are in the existing Specific Plan. The Development Standards proposed for the proposed residential use include standards regarding lot size, lot frontage, maximum number of units (11 unit maximum), site coverage, floor area ratio, building setbacks, building heights, and setbacks. The maximum height allowed would be 30 feet with a maximum of two stories (except a third level is permitted if less than 500 square feet). The minimum lot size is 3,100 square feet (3,400 square foot average). See exhibit M for the proposed development standards chart.

The proposed Specific Plan “encourages” extension of the existing public walkway such that it would extend behind the sandy beach area (i.e. between the sandy beach and the proposed residential area). The possible walkway extension is shown in the “Illustrative Site Plan” (see exhibit H). The walkway extension is depicted within the proposed residential area (Planning Area B), an area where the public trust has been terminated (see State Lands discussion, below). However, the walkway extension is not required under the proposed Specific Plan. Neither is there a mechanism included in the proposed Specific Plan to assure public availability of the walkway extension in perpetuity (such as an offer to dedicate a public access easement). Moreover, the same “Illustrative Site Plan” depicts private pool, spa, and patio area available exclusively to the residents, waterward of the walkway. Thus, public benefits of extension of the public walkway are in no way assured by the proposed Specific Plan.

Finally, the overall format of the document has been updated to be consistent with the City’s newer Specific Plans.

The shift in boundary lines is proposed to reflect the change in use proposed within Planning Areas A and B. Within Planning Areas C and D, the boundary areas are proposed to be shifted only slightly so that they fall along existing parcel lines. The proposed amendment includes a substantial reconfiguration of Planning Areas A and B. Revisions to Planning Areas A and B are proposed so that the newly proposed residential use will be contained entirely within revised Planning Area B. Planning Area A would then include the remaining portion of the existing parking lot, a portion of the public walkway along the bulkhead, and the public sandy beach. It should also be noted that the existing Planning Area A is located along the western boundary of the site, and the existing Planning Area B is located adjacent to Planning Area D. These planning area positions are proposed to be exchanged (see exhibit E).

B. Description of the Specific Plan Site

The approximately 10 acre site is currently developed in the following manner:

Planning Area D

1.9 acres (proposed to be reduced to 1.7 acres)

Two, three story condominium structures housing 36 condo units and ancillary development including semi-subterranean parking, a swimming pool, spa, and community clubhouse.

Planning Area C

5.9 acres (proposed to be increased to 6.0 acres)

A 164 slip marina (accommodating boats up to 45 feet in length), a small marina office building with public restroom facilities, and a parking lot.

Planning Area A (to be re-named Planning Area B under amendment proposal)

1.5 acres (Proposed Planning Area B would be reconfigured and would occupy 1.6 acres)

Two tennis courts, with changing rooms, and a 750 square foot structure previously used as a bar, and a sandy public beach.

Planning Area B (to be re-named Planning Area A under the amendment proposal)

1.3 acres (the proposed area is to be reconfigured but would remain 1.3 acres)

A 15,000 square foot, two story banquet/restaurant facility, and parking lot.

According to the proposed amendment there are 128 parking spaces at the site. However it is not clear how many spaces are in Planning Area C and how many are in Planning Area B. The existing, certified Specific Plan requires that a minimum of ten spaces must be available for public beach use. In addition, signage indicating the public nature of the accessway, recreation facilities and parking is also required by the existing, certified specific plan.

Currently, the banquet facility is used only sporadically for private functions. The owner has indicated that no functions have occurred at the facility for the last six months. It has been allowed to fall into disrepair. Other facilities on the property which, according to the applicant, have not been used in years are located in Planning Area A, and include two tennis courts with changing rooms and a 750 square foot building formerly known as the "Barefoot Bar".

The amended Specific Plan would allow the proposed residential area to be developed with up to 11 detached single family residences on 1.6 acres (all within the proposed boundaries of Planning Area B). Development of the contemplated residences would require the demolition of the existing banquet facility, tennis courts, and changing rooms. Thus, the proposed amendment would result in the loss of the existing recreation and banquet/restaurant facility within the Specific Plan area.

An offer to dedicate a ten foot wide public access easement along the bulkhead (also referred to as the boardwalk) and over the sandy beach at the time a coastal development permit was acted on was required in the Commission's approval of Land Use Plan Amendment 1-84, as well as by the Commission's original approval of the Specific Plan. The offers to dedicate have been recorded. This requirement is consistent with the public rights at the site specified in the State Lands Commission Title Settlement Agreements. The requirement for the provision of public access is included in the existing, certified Specific Plan. The Specific Plan required that the use of the boardwalk (bulkhead walkway), beach area and public parking spaces be kept open and free from impediments to pedestrian use. These areas are required to be available to the general public. The City considered accepting the "offers to dedicate", but declined. However, the State Coastal Conservancy is expected to accept them in the near future.

The Specific Plan requires signage advising of the availability of the public uses on site. Although the public walkway along the bulkhead is open and unobstructed, no signage is posted indicating its availability. In addition, no public parking is provided on site even though ten public parking spaces are specifically required by the Specific Plan. Moreover, each of the existing, on-site parking spaces is marked for exclusive use of the marina patrons. In fact, "tow-away" signs are posted throughout the site. There is no parking on Warner Avenue in the vicinity of the subject site. Public parking does exist on Edgewater Lane adjacent to the site, but to access it one must negotiate a maze of interior residential streets. This makes the likelihood of public parking on Edgewater unlikely for the majority of the public. Without the provision of the required public parking spaces, compounded by the lack of signage, public use of the walkway is extremely constrained. Furthermore, the sandy beach area, although public, is not currently accessible due to the presence of a locked gate blocking access, as well as a substantial amount of debris on the sand adjacent to the gate. Thus, use by the public of the existing public areas on site is significantly hampered.

Because the coastal development permit for this site was issued by the City, enforcement of these access issues is the responsibility of the City. If however, it becomes necessary, Coastal Commission enforcement staff will pursue the matter.

C. Specific Plan Background

Past Commission Actions

The City's Land Use Plan (LUP) was effectively certified (minus three geographic parts) on March 15, 1984. At that time the entire subject site was designated Recreation. On April 12, 1984, the Commission approved Land Use Plan amendment 1-84, which among other things, changed the land use designation at the subject site to Mixed Use – Specific Plan Overlay. The Commission's approval of the land use designation change was subject to a number of modifications. The modifications were accepted by the City, thus the amendment was effectively certified. The findings for the Commission's approval with modifications of the LUP Amendment identify concerns regarding a lack of physical and

visual access to Huntington Harbour. The concern with the change in land use designation proposed under LUP amendment 1-84 was that converting the land use designation from the higher priority recreational use to the, as proposed relatively ambiguous mixed use designation, was the loss of public use in an area (Huntington Harbour) already severely constrained by lack of opportunities for public use. As proposed, there was no requirement to retain a predominantly higher priority use at the site. In order to avoid the entire 10 acre site converting to lesser priority uses, such as residential, the Commission imposed the following requirements:

- A maximum of 1.9 acres shall be devoted to residential uses including residential parking and residential open space.
- All recreational facilities (excluding the open space requirements for the residential uses) shall be open to the public and public access shall be assured prior to occupancy of any of the residential units.
- Adequate public access and support facilities including parking shall be provided onsite.

In addition, a requirement that approval from the CSLC be obtained prior to transmittal of a permit was also imposed. These requirements were incorporated into the Land Use Plan at that time.

Also on April 12, 1984, the Commission acted on the City's Implementation Plan submittal. The proposed Implementation Plan included the Huntington Harbour Bay Club Specific Plan (HHBCSP or "Specific Plan"). The HHBCSP was intended to implement the Mixed Use – Specific Plan Overlay land use designation at the site. The Commission found that, as submitted, the Specific Plan did not carry out the provisions of the LUP, as modified by the Commission's approval of LUPA 1-84. In order to assure consistency with the concurrently approved land use plan amendment for the site, namely the provision and protection of public access and recreation, as well as to limit residential development at the site, the Commission approved the Specific Plan subject to suggested modifications. The Commission's modifications to the Specific Plan incorporated specific requirements for public access, recreation, and the requirement that a State Lands Determination be obtained prior to transmittal of a permit for the site. These modifications were accepted by the City and incorporated into the Specific Plan.

As required by the Specific Plan approved by the Commission, an offer to dedicate public access easements along the bulkhead walkway and sandy beach area have been recorded. The

State Lands

The site has been the subject of past actions by the California State Lands Commission (CSLC). The CSLC has entered into two separate agreements involving the subject

property. The first dispute arose with regard to an approximately 1.7 acre area that included bulkheaded, filled and reclaimed tidelands, which historically included the bed of numerous sloughs formerly within the Anaheim Bay tidal estuary. On July 15, 1991 the CSLC approved a compromise title settlement agreement, AD 162, between the State and the then property owner Destiny II. In the settlement agreement, Destiny II agreed to deposit \$60,000 into the Kapiloff Land Bank Fund administered by the CSLC. In exchange, the State terminated the public trust interest in the land subject to the settlement agreement. This area more or less coincides with the area currently developed with the existing condominium complex. However, it is important to note that the ten foot wide public access easement along the bulkhead between the condominiums and the marina was not included in this area of terminated public trust interest.

A second compromise title settlement agreement, AD 197, was approved by the CSLC on November 9, 1993. This compromise title settlement agreement was between the State and Doris and Ferydoun Ahadpour, the current property owners. The subject of the title dispute involved 12.37 acres. The Ahadpours owned the parcels involved in fee. The State contended that the property as evidenced by historical data was covered by the ordinary tides of tidal sloughs. The precise extent of coverage was the subject of the dispute. To the extent that the property was tidelands in its natural condition, the State contended that the parcels were subject to the Public Trust Easement for commerce, navigation and fisheries. The settlement provided that the Ahadpours deposit to the Kapiloff Land Bank Fund \$300,000 and grant to the State a Public Trust Easement on certain of the parcels involved. In return the State quitclaimed all its remaining sovereign right, title and interest and terminated any public trust interest in certain other parcels. The area that was granted to the State as a Public Trust Easement, generally coincides with the area of the marina, portions of the area of the public access walkway along the bulkhead, and the water area between the marina and the residential development along Edgewater Lane (see Exhibits J5, K, and L).

In addition, the area of the sandy beach and the remaining portion of the public access walkway adjacent to the condominium development, is within Patented TLL 221. Patented TLL 221 was not part of either settlement agreement described above, and the land included in this area remains public.

A letter from CSLC staff, dated January 13, 2005 (Exhibit J), states (regarding acceptance of the offers to dedicate the public access easements that exist on the site):

“We believe that acceptance by the City of Huntington Beach of the access easements within APN 178-291-40 (Lot F), and APN 178-291-35 (Lot D) is consistent with the obligations that the City undertook in 1960 regarding maintaining adequate public access to the waters of Huntington Harbour.”

The same letter from CSLC staff also states:

“Staff would oppose any effort to modify or remove any language of the currently certified Specific Plan that presently requires a CSLC jurisdictional determination

with regard to the presence or absence of lands subject to the public trust except as to parcels identified as APN 178-291-26, 27, 29, 31, 38, and 39.”

[Note: The APNs listed refer to those parcels upon which the public trust was terminated pursuant to the compromise settlement agreements: AD162 and AD 197.]

In addition, regarding the parcel containing all or portions of the sandy beach area, the letter from CLCS staff states:

“APN 178-291-40 (Lot F) – Staff understands that an Offer-To Dedicate (OTD) exists on this parcel, within Area A, and that the Coastal Conservancy has requested that the City of Huntington Beach accept the offer. Further staff understands that the City will consider the matter in the near future. Staff is supportive of the City’s accepting the OTD. Be advised that neither AD 162 nor AD197 terminated any public trust interest within this parcel and we believe it to be within the Coastal Commission’s retained jurisdiction.”

[Note: Lot F, referenced above, coincides with the sandy beach area]

Finally, it should also be noted that in addition to the sandy beach area, water area, and the public access easement along the bulkhead, there are two five foot wide vertical public access easements on the site. One provides access from Edgewater Lane to the bulkhead walkway, and the other provides access from Warner Avenue to the bulkhead walkway.

D. Consistency with Certified Land Use Plan

1. Public Use: Access, Visitor Serving, Recreation

The City’s certified Land Use Plan (LUP) includes the following policies:

C 1.1.3

The use of private lands suitable for visitor serving commercial recreational facilities designed to enhance public opportunities for coastal recreation shall have priority over private residential, general industrial, or general commercial development, but not over agriculture or coastal-dependent industry.

C 1.1.4

Where feasible, locate visitor-serving commercial uses in existing developed areas or at selected points of attraction for visitors.

C 1.2.2

Require that development be designed to account for the unique characteristics of project sites and objectives for Coastal Zone character in accordance with the Development “Overlay” schedule listed in Table C-1, as appropriate.

C 2.2.2.

Maintain existing pedestrian facilities and require new development to provide pedestrian walkways and bicycle routes between developments.

C 2.2.4

Adopt candidate locations for water-oriented transportation facilities, located in commercial areas in Huntington Beach Harbour.

C 2.5.1

Require that existing public access to the shoreline and Huntington Harbour waterways be maintained and enhanced, where necessary and feasible, not withstanding overriding safety, environmental or privacy issues.

C 2.7.1

Maintain and enhance, where necessary, the coastal resource signing program that identifies public access points, bikeways, recreation areas and vista points throughout the Coastal Zone.

C.3.2.1

Encourage, where feasible, facilities, programs and services that increase and enhance public recreational opportunities in the Coastal Zone.

C 3.2.3

Encourage the provision of a variety of visitor-serving commercial establishments within the coastal zone, including, but not limited to, shops, restaurants, hotels, and motels and day spas.

C 3.4.4

Encourage the provision of public boating support facilities compatible with surrounding land uses and water quality.

C 4.1.1

The scenic and visual qualities of coastal areas shall be considered and protected as a resource of public importance. Permitted development shall be sited and designed to protect public views to and along the ocean and scenic coastal areas.

C 4.2.1

Ensure that the following minimum standards are met by new development in the coastal Zone as feasible and appropriate:

- a) Preservation of public views to and from the bluffs, to the shoreline and ocean and to the wetlands.*
- b) ...*
- c) Evaluation of project design regarding visual impact and compatibility*
- d) ...*

The certified land use designation at the site is M-SP (Mixed Use – Specific Plan Overlay). Table C-1 of the certified Land Use Plan (LUP) describes the typical permitted uses within the Mixed Use designation. It states:

- Mixed use areas that may include Vertically Integrated Housing (MV) or Horizontally Integrated Housing (MH) uses, townhomes, garden apartments, and mid-/high-rise apartments, Commercial Visitor (CV) Neighborhood (CN) and Commercial General (CG) uses.
- Mixed use development in the coastal zone will focus on providing visitor serving commercial opportunities along the inland side of Pacific Coast Highway and within the Downtown Specific Plan Area.
- The exact density, location and mix of uses in this category shall be governed by a Specific Plan (“-sp”) to allow greater design flexibility and to address the uniqueness of a particular area.

Priority of Uses

In general, the Coastal Act places a higher priority on uses that can be enjoyed by the general public over those that are limited in scope as to who would benefit. The Commission has consistently placed a higher priority on public access, recreation and visitor serving uses over private residential uses. This priority is reflected in the City’s certified Land Use Plan as well, specifically in the policies cited above. For example, Policy C 1.1.3 states: *“The use of private lands suitable for visitor serving commercial recreational facilities designed to enhance public opportunities for coastal recreation shall have priority over private residential, general industrial, or general commercial development, but not over agriculture or coastal-dependent industry.”* Furthermore, the mixed use land use designation requires that *“mixed used development in the coastal zone will focus on providing visitor serving commercial opportunities.”*

The Commission and the City’s certified LCP afford these public uses a higher priority because they provide a greater benefit to a greater number of people, and because the Coastal Act specifically requires it. Private residential use is extremely limited in those it benefits: only those who actually live at the site, and their guests – an extremely limited fraction of the general population. Whereas, public uses, such as access, recreation, and visitor serving uses benefit a huge segment of the population. The scope of the benefit to the general public over the limited number that could benefit from a lesser priority use is compounded by the limited amount of water front area in general.

In Huntington Harbour, due to its pre-Coastal Act pattern of development, only a tiny fraction of water front area is available to the general public. Policy C 1.2.2 requires that “development be designed to account for the unique characteristics of project sites and objectives for Coastal Zone character”. The subject site provides a unique opportunity to provide public uses on the waterfront in Huntington Harbour. The proposal to convert the use to private residential does not take advantage of the opportunities unique to this site, inconsistent with LUP policy C 1.2.2.

The proposed Implementation Plan amendment would change the existing use allowed (within the site's specific plan) at a waterfront site on Huntington Harbour (one of the very few available to the general public). The proposed amendment would eliminate the currently allowed recreation and restaurant/banquet facility use and replace it with lower priority residential use. The subject site is one of the few sites on Huntington Harbour not already built out with residential development. The vast majority of the harbor is developed with private residences with no public access along the waterfront. There are extremely few sites that front on the harbor that provide any sort of public use, whether visitor commercial, recreational, or public access.

When the Commission approved the land use designation change at the site from Recreation to Mixed Use – Specific Plan, it did so subject to very specific limitations. The findings for the Commission's approval with modifications of the LUP amendment identify concerns regarding a lack of physical and visual access within Huntington Harbour. The concern was that converting the land use designation from the higher priority recreational use to the mixed use designation would create a net loss of public use in an area (Huntington Harbour) already severely constrained by lack of opportunities for public use. As proposed in 1984, there was no requirement to retain a predominantly higher priority use at the site. In order to avoid the entire waterfront site converting to lesser priority uses, the Commission imposed a requirement limiting the site to a maximum of 1.9 acres of residential use, including the area occupied by residential parking and residential open space. That 1.9 acre area coincides with the area of Planning Area D, where the (then and now) existing condominium development is located. Clearly it was the Commission's intent that the existing condominium development was the maximum amount of residential development acceptable at the site. The Commission limited residential development at the site to that which already existed due to concerns that additional residential development would not maximize public access and recreation and would not be consistent with the Coastal Act requirement regarding priority of uses. In denying LUP amendment 1-84 as submitted the Commission found:

“The proposed LUP amendment rather than protecting and encouraging recreational opportunities would reduce existing opportunities and preclude future expansion of access and recreation opportunities in the Harbor. Therefore, rather than maximizing such opportunities, the proposed residential development would further commit the area to private residential use.”

The Commission further found:

“This proposed Mixed Use land use designation presents the same type of concern that the Commission addressed in its original action on the City's LUP visitor serving land use designation. Due to limited sites available for provision of recreation uses in the Harbour, the long term residential use on remaining parcels would be inconsistent with the Coastal Act. Absent distinct limits on non-priority uses on portions of the site and protection of the public use areas of the site, development pressures could result in amendments to change the entire mixed use

to private residential. In past instances the Commission has seen such requests, usually strongly supported by the new residents of the area.

As presently proposed, the LUP amendment lacks sufficient standards to assure that recreational and public areas are provided for and protected in this "Mixed Use" designation. As proposed the "Mixed Use" designation does not assure maximum access and recreational opportunities consistent with the policies of Chapter 3 of the Coastal Act.

Given the expected demand, the limited number of sites, the location within ½ mile of the State Beach and adjacent to the waterfront, the Commission finds that conversion of the land use designation from one which provides priority recreation uses to one which would result in lower priority residential use is not consistent with the Access and Recreation policies of the Coastal Act."

In its findings for approval if modified of LUP amendment 1-84, the Commission found

"As the Commission found in Section V of this report, a Mixed Use land use designation, absent restrictions limiting residential uses onsite, would not assure that public access and recreational opportunities would be provided and protected consistent with the access and recreation policies of the Coastal Act."

The Commission further found:

"Modification A would strictly limit the amount of area on the site which could be committed to non-priority land uses. The 1.9 acres represents less than 30% of the site. By requiring a limit to maximum site coverage, this assures that the remaining open space areas are protected from further development. Modification B would provide that the predominate use on the site would be public recreation. While the existing facilities are private, provision of public access to the recreation facilities would mitigate for allowing a portion of the site to be converted to private use. Only with assurances that the remainder of the site be public could the Commission find the Mixed Use designation consistent with the Coastal Act. Provision of such access prior to occupancy of the residential units would assure that such uses would not be precluded at some future time.

Modification C would assure that public access to facilities would be maximized. Absent adequate parking for public uses in a mixed use area, the public recreation facilities would compete with private residential uses for available parking and access may thus be adversely affected. Therefore, Modification C is necessary to assure that private residential uses do not predominate. In addition, in combination with other certified LUP policies, adequate parking for each use on the site is required consistent with City parking standards. Modification D would assure that uses and development on the site are consistent with the protection of the public trust.

As modified, the Commission finds that the predominate use of the Mixed Use designation would be public recreation, and as modified the proposed amendment is consistent with the priorities of the access and recreation policies of the Coastal Act.”

Based on these findings, it is clear that the Commission’s intent was to limit the amount of residential development to the amount that already existed on site. The Commission found that any additional residential development on site would result in the land use designation change from recreational to mixed use inconsistent with the Coastal Act. The Commission’s finding was based on the lower priority use provided by private residential development, and on the extreme shortfall of public uses available on the waterfront in Huntington Harbour.

As stated above, the City’s certified Land Use Plan also places a higher priority on public uses than on private residential uses. In addition, the certified Mixed Use land use designation at the subject site requires that mixed use development within the coastal zone focus on providing visitor serving uses. The dearth of public use along the waterfront in Huntington Harbour still exists; there has been no increase since the Commission’s action in 1984. Thus there is no new basis to now justify a change in land use at the subject site to allow private residential development when the Commission very specifically found that the land use change to mixed use could not be allowed if additional residential development were provided at the subject site. And, such a change would be inconsistent with LUP Policy C 1.1.3 which requires that the use of private lands suitable for visitor serving commercial recreational facilities designed to enhance public opportunities for coastal recreation have priority over private residential development. In addition, the proposed change is inconsistent with the site’s land use designation which requires that development focus on visitor serving uses.

Huntington Harbour Existing Uses

Development of Huntington Harbour began in the early 1960s. It was developed primarily as a residential community fronting on a system of navigable channels and waterways. It encompasses 860 acres, of which 225 acres are water. There is some waterfront land available to the public within the harbor, but the vast majority of the waterfront is overwhelmingly inaccessible to the general public. There is a visitor commercial center, known as Peter’s Landing, located at Pacific Coast Highway and Anderson Street. Peter’s Landing includes a marina with some overnight slips for rent, a marine store, restaurants, and shops. There are no other visitor serving commercial uses on the water in Huntington Harbour within the City. There is one other waterfront lot in Huntington Harbour that is land use designated Visitor Commercial. It is, however, developed with an office building. There are small pockets of recreational uses that front on the harbor waters. These include four pocket parks/beaches that are approximately equivalent in size to a few single family lots, and one neighborhood size park, Seabridge Park, located at the end of Countess Drive. There is also a public walkway along the bulkhead on Trinidad Island that extends along about half of the water frontage of the island (approximately one mile). (See Exhibit D). However, in effect these public amenities serve residents of the harbor and,

although publicly owned and maintained, are unlikely to be utilized much by the general public. This is because in order to get to these sites one has to negotiate a labyrinth of residential streets to access them. In addition, because of their relatively small size, it is unlikely that a potential user would travel far in order to enjoy them.

There is also a public parking lot and small fishing pier just west of the subject site, along Warner Ave., that front on the harbor. In addition, just across the channel from this site, still on Warner Ave., is a site designated in the certified LUP as Public (Open Space-Commercial Recreational). This site is developed with a fire station, the Huntington Harbour Yacht Club, a public parking lot and boat launch ramp. There are two small boat rentals (kayaks, etc.), and a motel along Pacific Coast Highway that front on the waters of Huntington Harbour within the unincorporated County area of Sunset Beach. Other than the areas described above, the harbor waterfront within the City is entirely residential, with no public access along the water.

With all the inlets, bays, and islands in Huntington Harbour there are literally miles of waterfront land. However, only a small fraction of that waterfront area is available to the general public. The proposed amendment would reduce even further public uses available on the harbor's waterfront. This reduction in harbor front area available to the general public is inconsistent with LUP policy C 3.2.1 which requires that facilities, programs and services that increase and enhance public recreational opportunities in the coastal zone be encouraged, where feasible.

Unique Location

Not only is the subject site one of the few sites that provide some public use, it is very favorably situated to provide a public use. It fronts directly on the waters of the harbor, and it is located on Warner Avenue, a major access corridor to the coast. The subject site is just a few blocks inland of Pacific Coast Highway and the ocean beach. Thus, the site is highly visible to visitors as they enter the coastal zone from inland along Warner Avenue. A public walkway already exists at the site. The sandy beach at the site is also public. In addition, ten public parking spaces are required on-site. The existing marina at the site and harbor waters provide desirable public views from the site. LUP Policy C 4.1.1 requires that *"The scenic and visual qualities of coastal areas shall be considered and protected as a resource of public importance. Permitted development shall be sited and designed to protect public views to and along the ocean and scenic coastal areas."*

Within the City of Huntington Beach, public access to the ocean beach is available along the entire beach area. In addition, general public visitor uses are available in the Downtown Specific Plan area (generally along Pacific Coast Highway, north and south of the pier). In addition, the City points to the visitor serving uses that will be available once the Palm Goldenwest Specific Plan area begins to develop. Nevertheless access to the shoreline within Huntington Harbour is extremely limited and is not only desirable, but required. The City's certified LUP policy states:

C 2.5.1

Require that existing public access to the shoreline and Huntington Harbour waterways be maintained and enhanced, where necessary and feasible, not withstanding overriding safety, environmental or privacy issues.

As described elsewhere in this report, very little public use and public access is available within Huntington Harbour. The subject site currently provides public use, including public access along the ten foot wide bulkhead walkway. In addition, the sandy beach at the site is public. The change in allowable use proposed in the amendment would reduce the ability of the subject site to maximize this existing public use. The existing, certified Specific Plan requires that the recreational use at the site be available to the public. The restaurant/banquet facility, though allowed under the existing Specific Plan to be a private facility, is also allowed as a facility available to the general public. To allow these uses to convert to private residential use would result in permanent loss of the opportunity for public visitor serving use at the site.

Increasing the amount of residential use at the site, as proposed under the amendment, would decrease the likelihood of use of the existing public walkway. The area proposed to be converted to residential use is adjacent to the public sandy beach. Placing residential development immediately adjacent to the public beach invites conflicts between beach users and the future residents. Even if the public beach remained accessible, private residential development immediately adjacent to the beach lessens the likelihood that the public would comfortably use the beach. This situation would be further exacerbated by the extension of the public walkway illustrated in the proposed Specific Plan (see Exhibit H). This depicts the extension of the public walkway within Planning Area B, on property where the public trust has been terminated. On the waterward side of this walkway, a pool, spa, and patio area for the exclusive use of residents is depicted. This development configuration creates the appearance that the walkway is private. And increases the likelihood that the public beach would be perceived as private too. On the contrary, a public use at the site encourages public use of the beach. In addition, a public use at the site increases the number of people aware of the public amenities, and thus the number of people who are likely to use the existing public walkway and beach area. Private residential development immediately adjacent to a public beach is inconsistent with LUP Policy C2.5.1 which requires that existing public access to Huntington Harbour waterways be maintained and enhanced, where necessary and feasible.

Feasibility of Public Use

The property owner contends that restaurant/banquet use at the site is not feasible. An Economic Viability Study prepared for the owner supports this assertion. However, the restaurant/banquet facility along with the racquet club has not been maintained for years. Viewed from Warner, it appears to be abandoned. However, if the site were properly maintained, it is difficult to imagine that some sort of visitor serving use could not be viable at the site. As stated previously, it is located on Warner Avenue, a major arterial. The site is readily visible from Warner Avenue. It is less than ½ mile inland of the intersection of Warner and Pacific Coast Highway, another major coastal access arterial. It is a

waterfront site. Waterfront sites are extremely desirable locations for restaurants. In addition to visitors, there is a large pool of residents in the local vicinity to support such a use during non-peak periods, adding to its viability. In addition to the existing development, a new 349 unit residential development (5-05-020, Brightwater) was recently approved by the Commission just across Warner Avenue and slightly inland from the subject site. LUP policy C 1.1.4 requires that, where feasible, visitor-serving commercial uses be located in existing developed areas or at selected points of attraction for visitors. The subject site is in an existing developed area. The site is also an appropriate point of attraction for visitors, given it's location on the harbor waterfront, as well as along a major beach access arterial.

As far as the recreational component, if a racquet club is not considered viable or desirable, other recreational options exist. Certainly, some sort of boating recreational use could be established. This may include boat rentals, or as suggested in LUP policy C 2.2.4, a water oriented transportation facility could be established (*“Adopt candidate locations for water-oriented transportation facilities, located in commercial areas in Huntington Beach Harbour.”*). A water oriented transportation facility might include a harbor cruise type use, a water-taxi type use (perhaps establishing waterborne connections between the subject site and Peter's Landing, possibly including other stops such as Seabridge Park at the end of Countess Drive), or a ferry type service connecting the subject site with points beyond Huntington Harbour (perhaps to Newport Harbor, Long Beach harbor or elsewhere). In addition, LUP policy C 3.4.4 states: *“Encourage the provision of public boating support facilities compatible with surrounding land uses and water quality”*. A public boat hoist or boat ramp accessible to trailered boats may be appropriate and feasible, and would be consistent with this LUP policy. There are currently no boat hoists and only one boat ramp within the City on Huntington Harbour. Other visitor uses at the site could also be considered, a Bed and Breakfast facility for example. This is just a brief sampling. Many other options providing public use opportunities consistent with the certified Land Use Plan are available. LUP policy C 3.2.3 encourages the provision of a variety of visitor-serving commercial establishments within the coastal zone, including shops, restaurants, hotels, and motels and day spas.

The City has indicated that residential use is appropriate due to past conflicts between the banquet facility/restaurant and neighboring residential development. However, the juxtaposition of the visitor serving use with the residential zoning at the site has existed since the LCP was certified, prior to the development of much of the surrounding residential development. In addition, residentially zoned areas abut visitor serving type uses in other areas of the City's coastal zone and are nevertheless successfully developed. For example, the blocks along Pacific Coast Highway between 9th and 6th Streets are developed with visitor serving uses including a fast food restaurant (Taco Bell), two motels (Quality Inn and Huntington Surf Inn), a Chevron gas station, a doughnut shop, a coffee house, and a surf shop. These visitor serving uses abut residential uses, yet they have been successfully developed. This is true elsewhere in the City as well.

In addition, the City has indicated that loss of the public use at the site will be offset by the uses provided under the Palm Goldenwest Specific Plan (approved by the Coastal

Commission as LCP amendment 1-00). The Palm Goldenwest Specific Plan includes the area that fronts on Pacific Coast Highway between Seapoint and Goldenwest Streets. The Specific Plan designates the 96 acres along Pacific Coast Highway for Visitor Serving Use. However, the Visitor Serving Use will not become effective until resource production at the Specific Plan site ceases. The City anticipates resource production to continue at the Specific Plan site for a minimum of 15 to 20 years. This is just an estimate which is based on current oil recovery technology. Resource production could be extended beyond this time frame due to factors such as the discovery of additional resources; new technology making the continued recovery of resources cost effective; the price of imported oil, etc. Because of this extended time delay the amount of visitor serving commercial uses that may occur in the future under the Palm Goldenwest Specific Plan cannot be considered as offsetting the loss of visitor serving uses proposed under this current amendment. And, it should be noted, the recently approved Palm and Goldenwest Specific Plan includes residentially designated areas adjacent to visitor serving areas (called Mixed Use-Horizontal Integration of Housing in the Specific Plan). More importantly, the Palm Goldenwest site is not a waterfront site and is not located in Huntington Harbour. The subject site is a waterfront lot located on Huntington Harbour, an area recognized as severely deficient in public uses.

Conclusion

The certified Land Use Plan places a higher priority on public access, visitor serving, and recreational uses than on residential use. These types of public uses provide greater public benefit than private residential uses. The location of the subject site as a harbor front lot is unique in that it is one of the very few areas not already developed with private residences. Thus, the subject site provides a rare opportunity to continue to provide and maximize public use on Huntington Harbour. The proposed IP amendment would result in a loss of the higher priority use in an area already extremely deficient in public use opportunities. For these very reasons, in its previous action at the site (Huntington Beach LCP amendment 1-84), the Coastal Commission expressly limited the amount of residential development allowed under the mixed use designation to the 1.9 acre area of existing residential development. The proposed change is inconsistent with the LUP policies cited above regarding these issues. Specifically the proposed Implementation Plan amendment is inconsistent with certified LUP policies regarding priority of uses and public access. The Commission finds that the proposed Implementation Plan amendment is inconsistent with and inadequate to carry out the policies and standards of the certified Land Use Plan. Therefore, the Commission denies the City's Implementation Plan amendment request 1-04.

2. Implementation Plan Only Amendment Vs. Land Use and Implementation Plan Amendment

The amendment request was submitted for Commission action (via City Council Resolution No.2004-19) as an amendment to the City's certified Implementation Plan only. The existing, certified Huntington Harbour Bay Club Specific Plan is a zoning document. However, the proposed specific plan appears to be both a zoning document and a policy

document. The proposed specific plan includes a great deal of narrative, and is not structured as a zoning document. It also effectively designates land uses the designation of which was left open, or at least flexible, in the LUP. As such, it would have been appropriate to submit the document as an amendment to both the Land Use Plan and the Implementation Plan. Because the proposed specific plan cannot be found to be consistent with the certified Land Use Plan, and thus must be denied, the point is not critical at this time. However, in the future, such a document should be submitted for review by the Commission as an amendment to both the Land Use Plan and the Implementation Plan.

III. California Environmental Quality Act

Section 21080.9 of the California Public Resources Code – a section of the California Environmental Quality Act (CEQA) - exempts local governments from the requirement of preparing an environmental impact report (EIR) in connection with their activities and approvals necessary for the preparation and adoption of a local coastal program (LCP). Instead, the CEQA responsibilities are assigned to the Coastal Commission. However, the Commission's LCP review and approval program has been found by the Resources Agency to be functionally equivalent to the EIR process, pursuant to Public Resources Code ("PRC") section 21080.5. Thus, the Commission is relieved of the responsibility to prepare an EIR for each LCP. Nevertheless, the Commission is required, in approving an IP or LCP submittal (or, as in this case, an IP or LCP amendment submittal) to find that the approval does conform with the provisions of CEQA, including the requirement in PRC section 21080.5(d)(2)(A) that the amended IP will not be approved or adopted as proposed if there are feasible alternative or feasible mitigation measures available which would substantially lessen any significant adverse impact which the activity may have on the environment. 14 C.C.R. §§ 13542(a), 13540(f), and 13555(b). The City of Huntington Beach LCP amendment 1-04 consists of an Implementation Plan (IP) amendment.

As outlined in this staff report, the IP amendment is not in conformity with nor adequate to carry out the public access, recreation, and visitor serving policies of the certified LUP. Therefore, the Commission finds that approval of the LCP amendment will result in significant adverse environmental impacts under the meaning of CEQA. Feasible alternatives exist in that the site can retain the uses currently allowed, or a different use that is consistent with the priority of uses established in the policies of the certified LUP could be established. The allowable use at the site is especially critical due to the site's location on the waterfront in Huntington Harbour, where, due to its development prior to the establishment of the Coastal Act, very little public access or use is available. Therefore, the Commission finds that there are feasible alternatives under the meaning of CEQA which would reduce the potential for significant adverse environmental impacts. Therefore, the Commission denies LCP amendment request 1-04.

Huntington Beach LCP Am. 1-04
Huntington Harbour Bay Club Specific Plan
Page 20

ORDINANCE NO. 3634

AN ORDINANCE OF THE CITY OF HUNTINGTON BEACH AMENDING SPECIFIC PLAN 4 (HUNTINGTON HARBOUR BAY CLUB SPECIFIC PLAN) BY RECONFIGURING SUBAREAS A THROUGH D, ALLOWING RESIDENTIAL USE IN SUBAREA B, ADDING DEVELOPMENT STANDARDS FOR RESIDENTIAL USE, AND UPDATING THE OVERALL FORMAT OF THE SPECIFIC PLAN (ZONING TEXT AMENDMENT NO. 01-05)

WHEREAS, pursuant to California State Planning and Zoning Law, the Huntington Beach Planning Commission and Huntington Beach City Council have held separate, duly noticed public hearings to consider Zoning Text Amendment No. 01-05, which amends Specific Plan 4 (Huntington Harbour Bay Club Specific Plan) by reconfiguring subareas A through D, allowing residential use in subarea B, adding development standards for residential use, and updating the overall format of the Specific Plan; and

After due consideration of the findings and recommendations of the Planning Commission and all other evidence presented, the City Council finds that the aforesaid amendment is proper and consistent with the General Plan,

NOW, THEREFORE, the City Council of the City of Huntington Beach does hereby ordain as follows:

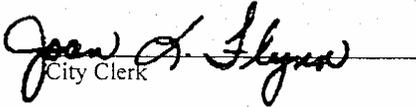
SECTION 1. That Specific Plan 4 (Huntington Harbour Bay Club Specific Plan) is hereby amended and restated as set forth in the document entitled "Huntington Harbour Bay Club Specific Plan," a copy of which is attached hereto as Exhibit "A" and incorporated by this reference as though fully set forth herein.

SECTION 2. This ordinance shall take effect immediately upon certification of Local Coastal Program Amendment No. 01-01 by the California Coastal Commission.

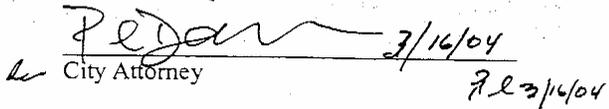
PASSED AND ADOPTED by the City Council of the City of Huntington Beach at a regular meeting thereof held on the 21st day of June, 2004.


Mayor

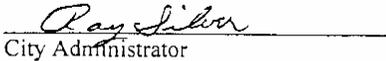
ATTEST:


City Clerk

APPROVED AS TO FORM:


City Attorney 3/16/04
723/14/04

REVIEWED AND APPROVED:


City Administrator

INITIATED AND APPROVED:


Director of Planning

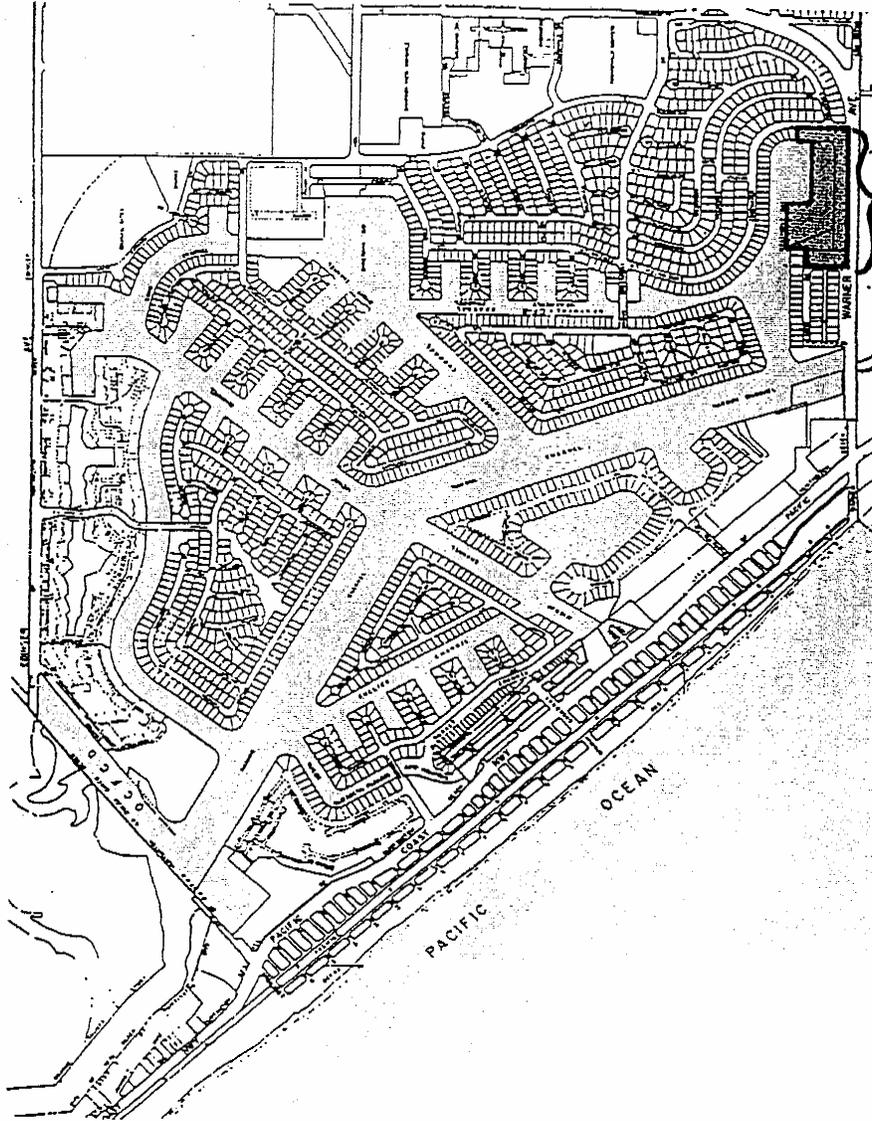
ATTACHMENTS:

Exhibit "A" Amended Huntington Harbour Bay Club Specific Plan

COASTAL COMMISSION
HNB LCPA 1-04
EXHIBIT A
PAGE 1 OF 1

Project Area Description

Section 2



Subject Site

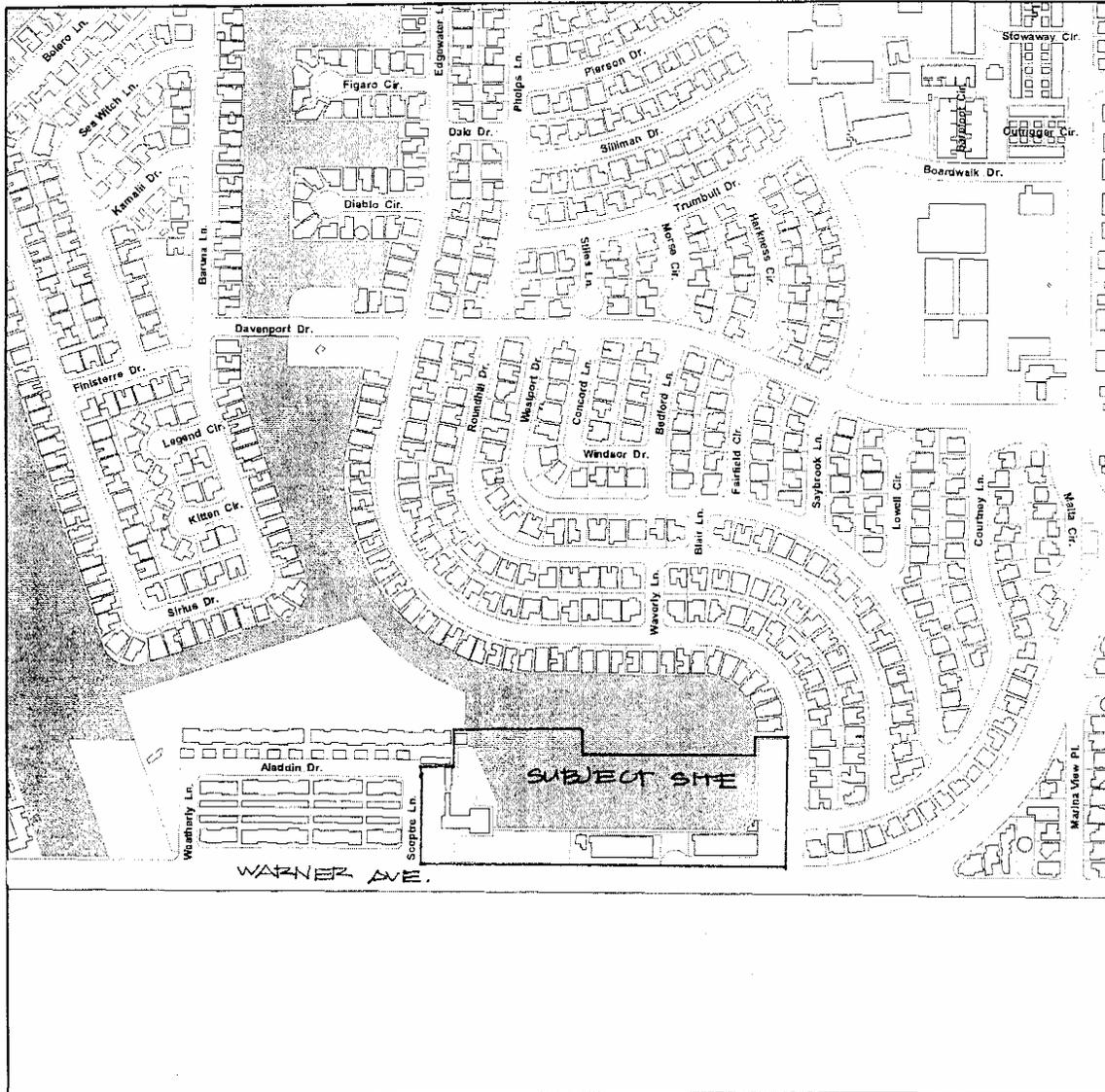
Exhibit 2.1 Map of Huntington Harbour

COASTAL COMMUNITY DEVELOPMENT
HNB LCPA 1-04
SECTION B
PAGE 1 OF 1

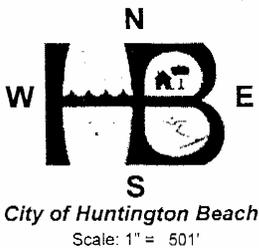
HUNTINGTON HARBOUR BAY CLUB

Huntington Beach LCP Am. 1-04
 Huntington Harbour Bay Club Specific Plan
 Page 22

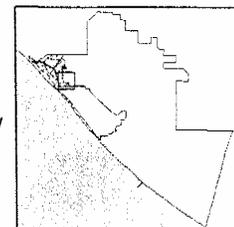
4/4/2003 7:39:37 AM



Huntington Harbour Bay Club



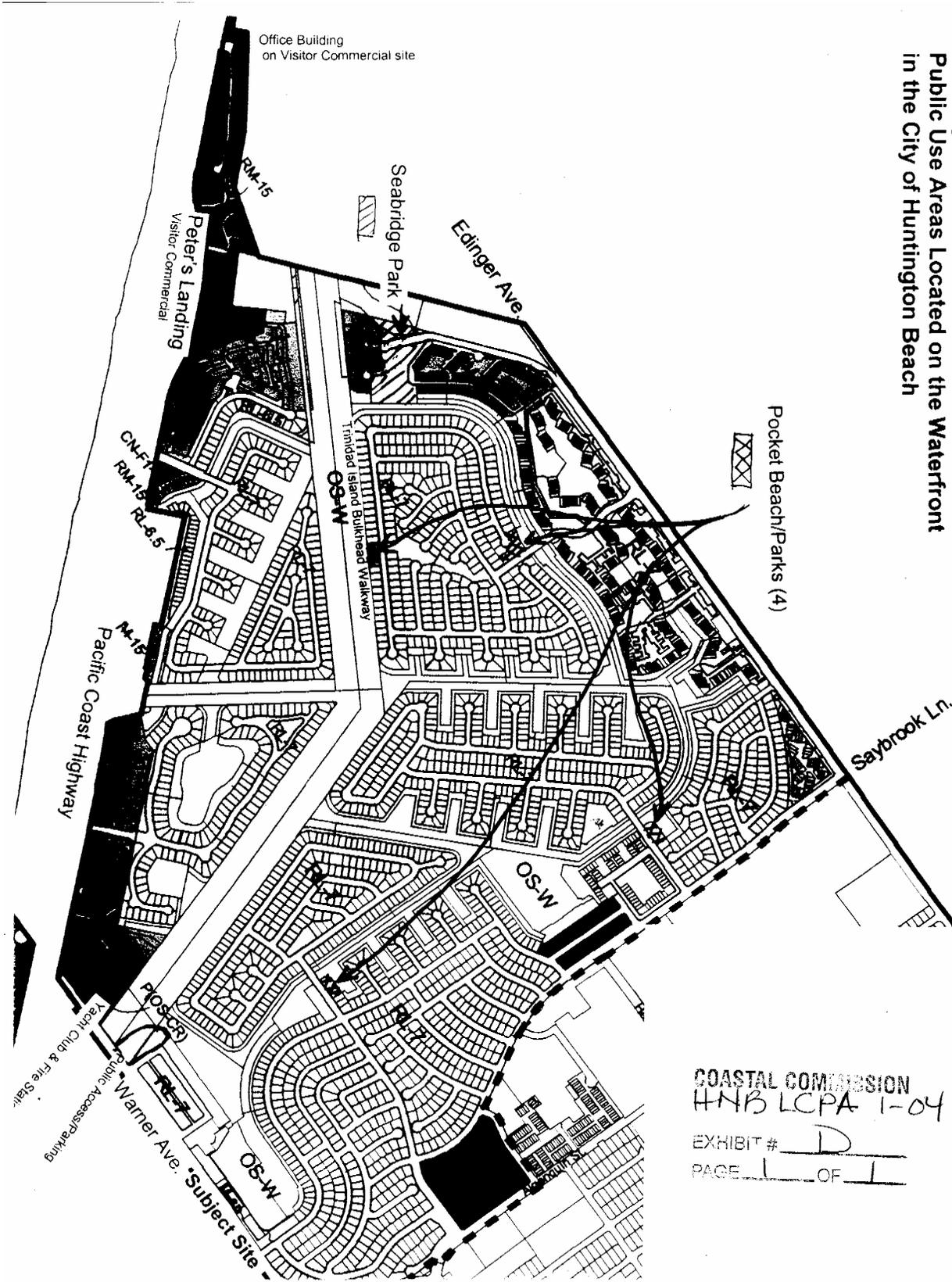
PLANNING DEPARTMENT
 HNB LCPA 1-04
 SHEET # C
 PAGE 1 OF 1



ATTACHMENT NO. ~~1-24~~

Huntington Beach LCP Am. 1-04
Huntington Harbour Bay Club Specific Plan
Page 23

Huntington Harbour:
Public Use Areas Located on the Waterfront
in the City of Huntington Beach



COASTAL COMMISSION
HNB LCPA 1-04
EXHIBIT # D
PAGE 1 OF 1

HUNTINGTON HARBOUR BAY CLUB

Exhibit 4.5 1983 Planning Areas

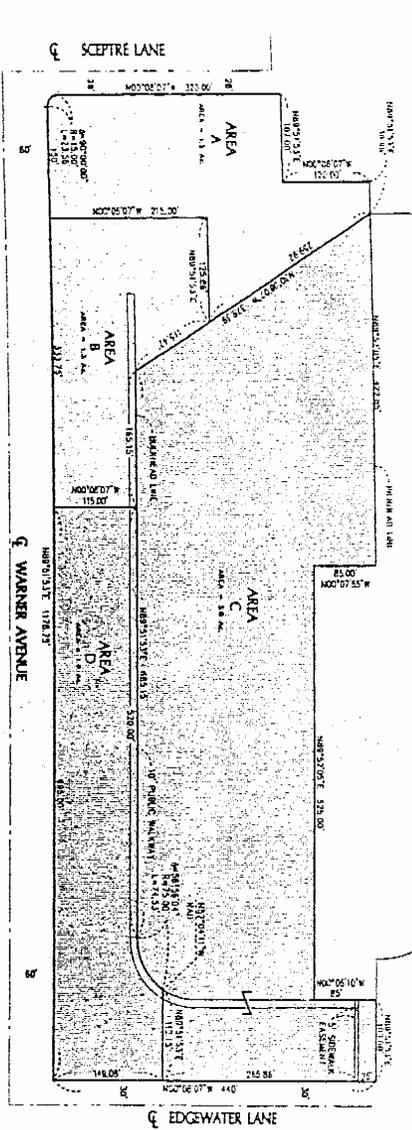
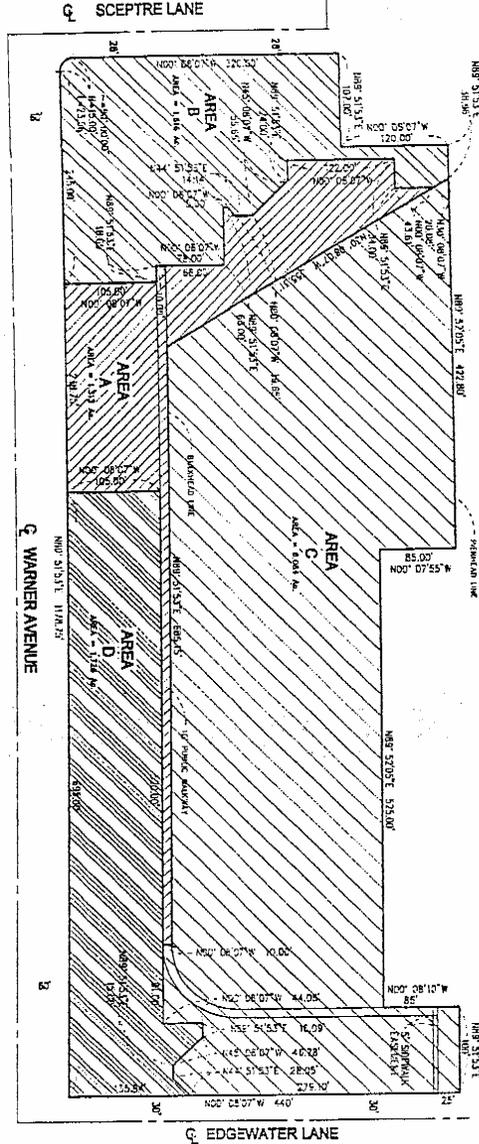


Exhibit 4.4 2003 Planning Areas



Planning Area	Total Net Acres			
	A	B	C	D
1983	1.5	1.3	5.9	1.9
2003	1.3	1.6	6.0	1.7

Specific Plan Concept

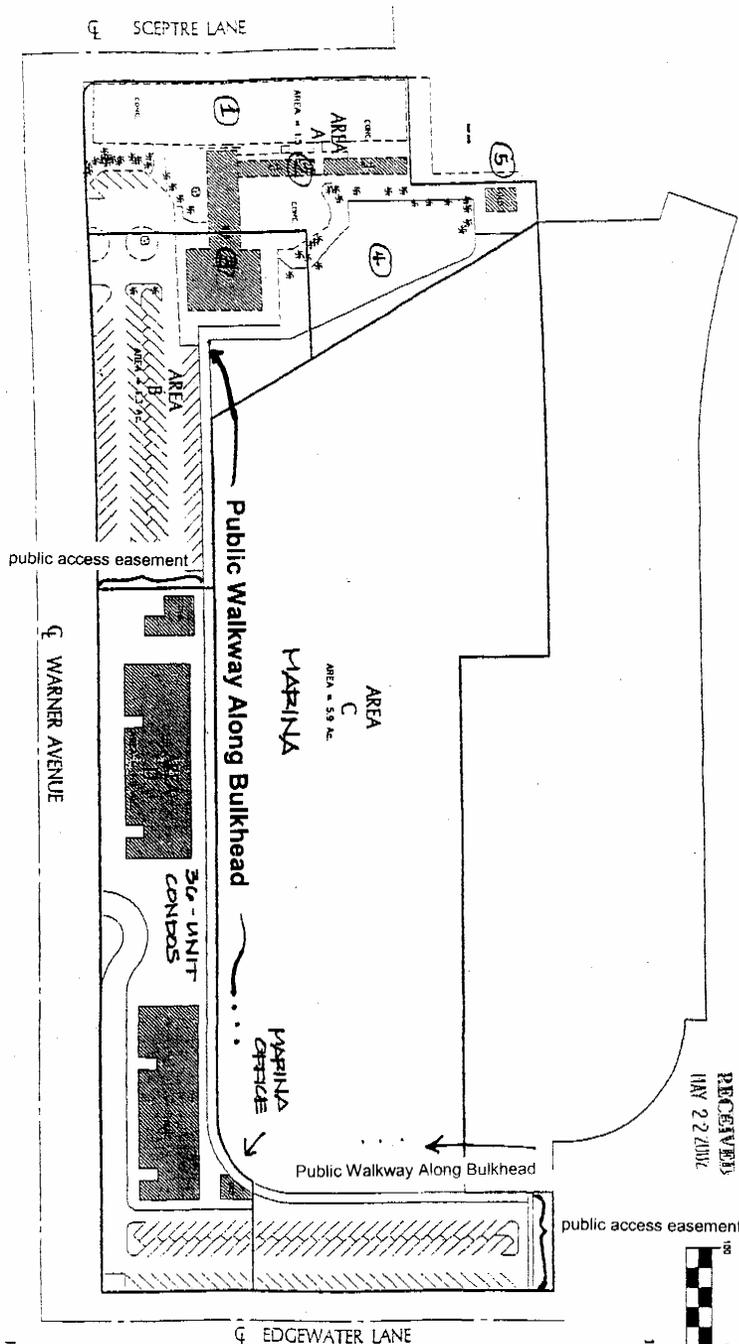
HNB LCPA 1-04
 EXHIBIT E
 SHEET 1 OF 1

1. TENNIS COURTS
2. CHANGING ROOMS
3. BANQUET FACILITY
4. BEACH
5. TOPNER "BAYFOOT BAY"

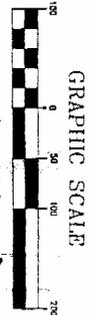
SITE CONDITIONS
 (WITH EXISTING PLANNING AREAS)

APPROVAL NO. ~~4.25~~

4.25

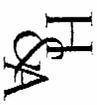


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 MAY 22 2002



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 1-04
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 PAGE 1 OF 1

PREPARED BY:



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DATE: 05/17/02 SHEET 1 OF 1
 C:\HUNTINGTON\SITE WITH EX PLANNING.dwg

Huntington Beach LCP Am. 1-04
 Huntington Harbour Bay Club Specific Plan
 Page 26

Specific Plan Concept

PERMITTED USES & ACTIVITIES	PLANNING AREA			
	A	B	C	D
COMMERCIAL				
Public Marina				
RESIDENTIAL				
Multi-Family Condo (42 d.u. max)				
Single Family Condo (11 d.u. max)				

PERMITTED USES & ACTIVITIES	PLANNING AREA			
	A	B	C	D
PUBLIC / SEMI-PUBLIC				
Beach				
Pedestrian Promenade				
Public Parking				
Public Restrooms				

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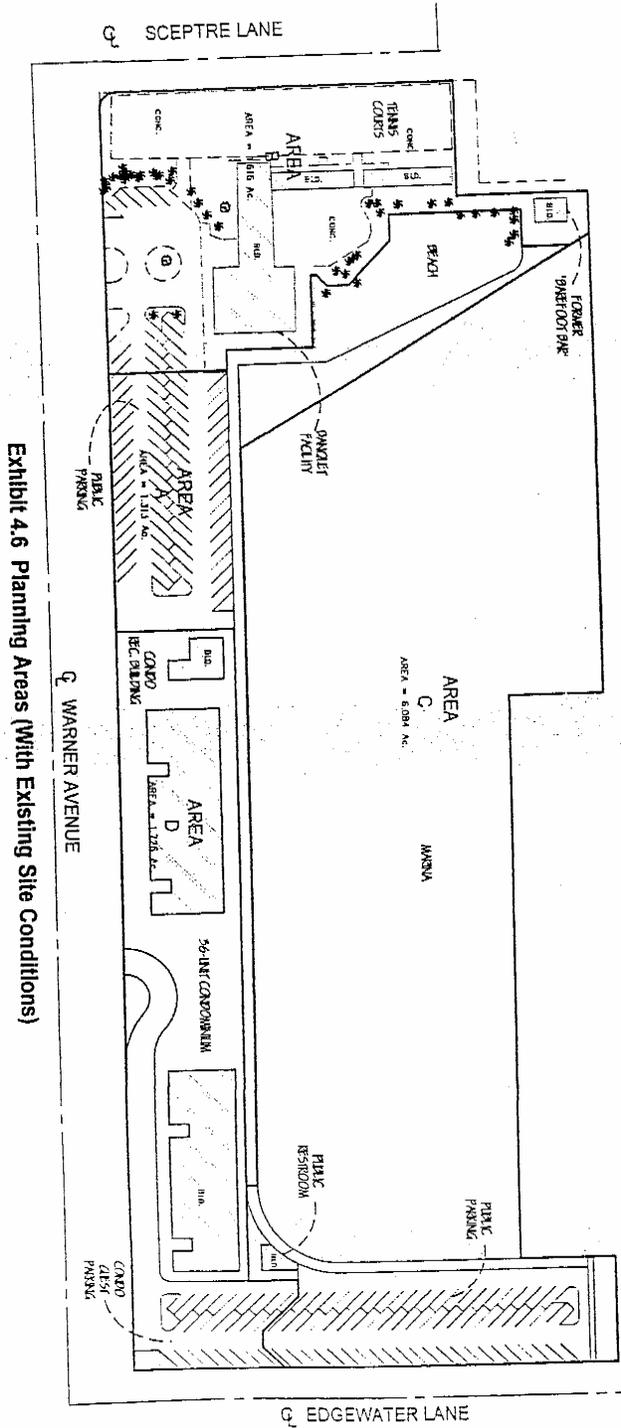
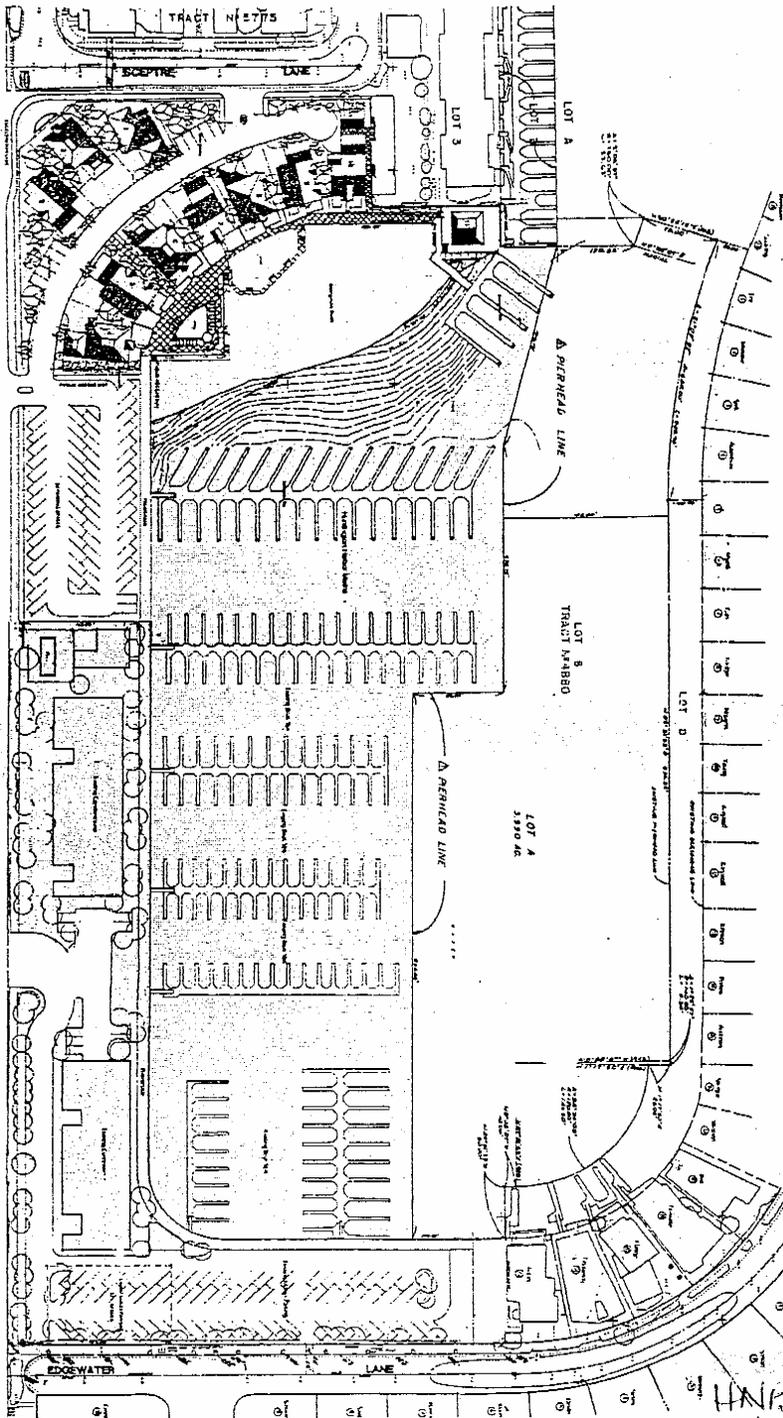


Exhibit 4.6 Planning Areas (With Existing Site Conditions)

HUNTINGTON HARBOUR BAY CLUB



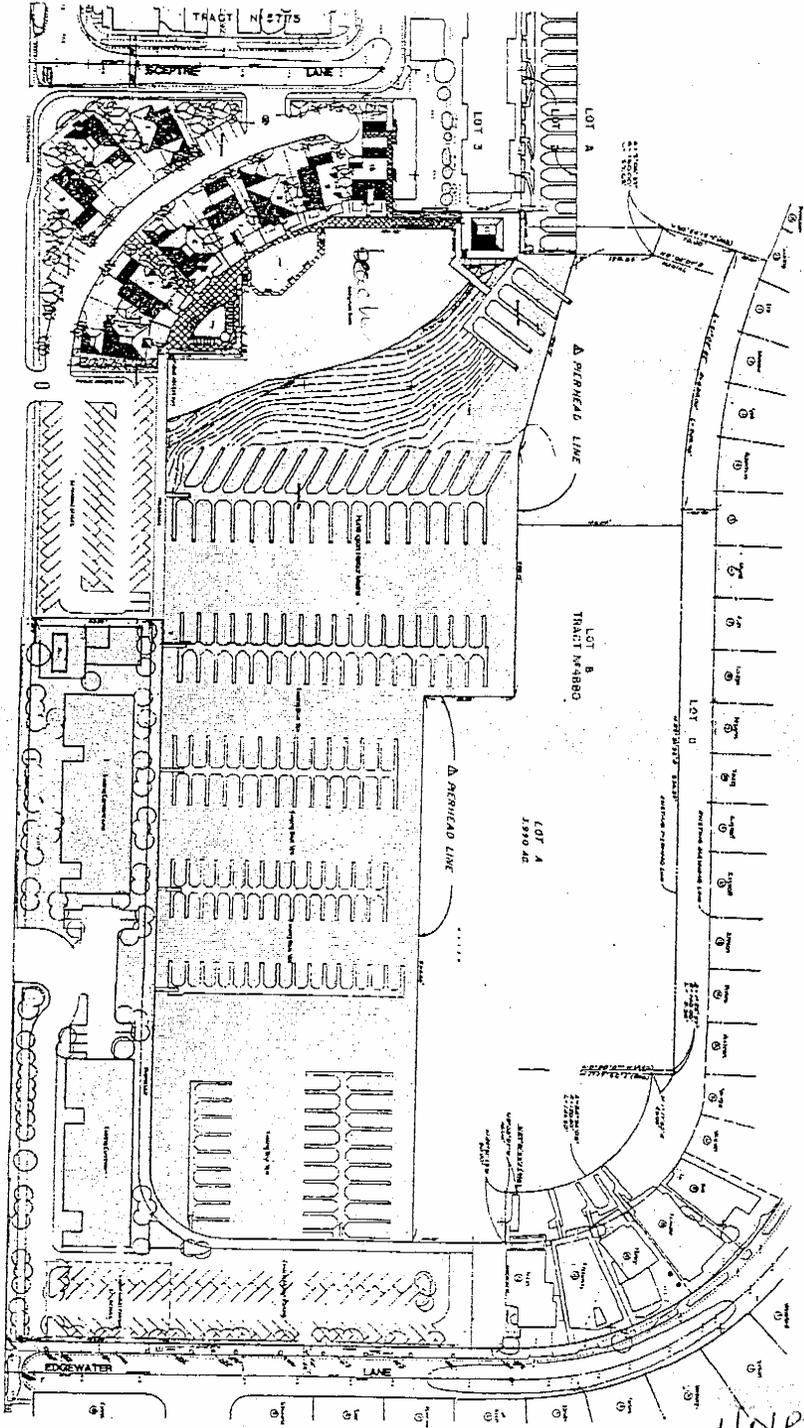
Specific Plan Concept

Exhibit 4.2 Illustrative Site Plan

(Plan has not been reviewed in accord with City standards and these development regulations. Final plan approved may vary significantly.)

HUNTINGTON HARBOUR BAY CLUB

Huntington Beach LCP Am. 1-04
Huntington Harbour Bay Club Specific Plan
Page 28



Specific Plan Concept

HNB LC PA
1-04
I

Exhibit 4.2 Illustrative Site Plan
(Plan has not been reviewed in accord with City standards and these development regulations. Final plan approved may vary significantly.)

HUNTINGTON HARBOUR BAY CLUB

Huntington Beach LCP Am. 1-04
Huntington Harbour Bay Club Specific Plan
Page 29

STATE OF CALIFORNIA

ARNOLD SCHWARZENEGGER, Governor

CALIFORNIA STATE LANDS COMMISSION
100 Howe Avenue, Suite 100-South
Sacramento, CA 95825-8202



PAUL D. THAYER, Executive Officer
(916) 574-1800 FAX (916) 574-1810
Relay Service From TDD Phone 1-800-735-2922
from Voice Phone 1-800-735-2929

Contact Phone: (916) 574-1879
Contact FAX: (916) 574-1925

January 13, 2005

File Ref: SD 2004-09-22.2

Ricky Ramos
Associate Planner
City of Huntington Beach
2000 Main Street
Huntington Beach, CA 92648

Meg Vaughn
California Coastal Commission
South Coast Area Office
200 Oceangate, Suite 1000
Long Beach, CA 90802-4302

Dear Mr. Ramos:
Dear Ms. Vaughn:

Subject: City of Huntington Beach Proposed Local Coastal Program (LCP)
Amendment 1-04 to Modify the Existing Huntington Harbour Bay
Club Specific Plan (Plan), Huntington Beach, Orange County

This is in response to the September 15th letter from the California Coastal Commission (CCC) as well as the September 21st dated material faxed to staff by the City of Huntington Beach (City) regarding the proposed LCP amendment to modify language in the Huntington Harbour Bay Club Specific Plan. CCC and the City have requested available historical information relative to the California State Lands Commission (CSLC) actions associated with area of Huntington Harbour. That information is included in this response.

The information provided to CSLC staff by the City and CCC does not include the specific language proposal involving the modification of the Huntington Harbour Bay Club Specific Plan. Staff cannot issue a jurisdictional statement as to any CSLC interest within the project area or as to the LCP amendment without more detailed information.

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J
1-13-05

Huntington Beach LCP Am. 1-04
Huntington Harbour Bay Club Specific Plan
Page 30

Josely Ramos, City of Huntington Beach
Greg Vaughn, California Coastal Commission
Proposed LCP Amendment
Page 2

SD 2004-09-22.2

However, the following information is provided for the consideration of the City and CCC:

On July 15, 1991 the State Lands Commission approved a compromise title settlement agreement, AD 162, between the State and Destiny II, a California general partnership. The settlement involved the ownership of approximately 1.7 acres of real property within the City of Huntington Beach. The property included bulkheaded, filled and reclaimed tidelands, which historically included the bed of numerous sloughs formerly within the Anaheim Bay tidal estuary. The parcels were identified as Lots 2,3,4, and 5 of Tract 11881, Huntington Harbour. In the settlement agreement, Destiny II agreed to deposit \$60,000 into the Kapiloff Land Bank Fund administered by the CSLC as a trustee pursuant to PRC 8600 et seq. In exchange, the State terminated the public trust interest in the above listed parcels with the exception of the adjacent Lot D, APN 178-291-35 which was owned in fee by Destiny II. The agreement did not terminate the Public Trust Easement over Lot D. This parcel is currently shown on the Assessor's Plat as a public access easement and is adjacent to the existing marina. A copy of the 1991 CSLC minute item approving AD 162 is attached for your reference.

On November 9, 1993 the CSLC approved a compromise title settlement agreement, AD 197, between the State and Doris and Ferydoun Ahadpour. The subject of the title dispute involved 12.387 acres of real property within the City of Huntington Beach. The Ahadpours owned the parcels involved in fee. The State contended that the property as evidenced by historical data was covered by the ordinary tides of tidal sloughs. The precise extent of coverage was the subject of the dispute. To the extent that the property was tidelands in its natural condition, the State contended that the parcels were subject to the Public Trust Easement for commerce, navigation and fisheries. The settlement provided that the Ahadpours deposit to the Kapiloff Land Bank Fund \$300,000 and grant to the State a Public Trust Easement over Lots A, B, C and E, of Tract 11881 identified in the Orange County Assessor Records as APN 178-291-32, 33,34 and 36. The grant of a Public Trust Easement was recorded in the Official Records of Orange County, County Recorder, Document Nos. 94-0231559 and 94-0231560, both recorded on April 4, 1994. In return, the State quitclaimed all its remaining sovereign right, title and interest and terminated any public trust interest in the Trust Termination Parcels identified as Lots 1, 6, & 7, Tract 11881, identified in the Orange County Assessor Records as APN 178-291-26,31,39. The agreement did not terminate the State's claims of a Public Trust Easement within Lot F (APN 178-291-40) and we believe these lands remain within the Coastal Commission's retained jurisdiction. A copy of the 1993 CSLC minute item approving AD 197 is attached for your reference.

The following is provided to assist you in identifying associated Boundary Line Agreements/Settlements and Public Trust Easements of the parcels within Planning Areas labeled Area A, B, C and D as shown on Exhibit 4.4 2003 Planning Area. We have enclosed a color-coded exhibit that identifies the effected parcels of the two agreements listed above.

J₂

Huntington Beach LCP Am. 1-04
Huntington Harbour Bay Club Specific Plan
Page 31

Andy Ramos, City of Huntington Beach
Greg Vaughn, California Coastal Commission
Proposed LCP Amendment
Page 3

SD 2004-09-22.2

APN 178-291-36 (Lot E) - This portion of existing walkway within **Area A** is subject to a Public Trust Easement per settlement AD197.

APN 178-291-31 (Lot 6) - This parcel is shown as a portion of **Area A**. The Public Trust Easement was terminated on this parcel per settlement AD197.

APN 178-291-40 (Lot F) – Staff understands that an Offer-To-Dedicate (OTD) exists on this parcel, **within Area A**, and that the Coastal Conservancy has requested that the City of Huntington Beach accept the offer. Further, staff understands that the City will consider the matter in the near future. Staff is supportive of the City's accepting the OTD. Be advised that neither AD 162 nor AD 197 terminated any public trust interest within this parcel and we believe it to be within the Coastal Commission's retained jurisdiction.

APN 178-291-32 and APN 178-291- 33 (Lots A and B) – These parcels within **Area C** of the waterway remain subject to the Public Trust Easement per AD 197.

APN 178-291-39 (Lot 7) - Please note that the Public Trust Easement was terminated on this parcel per AD 197. This parcel is within **Area B**.

APN 178-291-29, APN 178-291-38, and APN 178-291-27 (Lots 4 and 2) - Please note that the Public Trust Easement was terminated on these parcels per AD 162. These parcels are within **Area D**.

APN 178-291-26 (Lot 1)– This parcel is within **Area C**. Please note that the Public Trust Easement was terminated on this parcel per AD 162. However, the parcel contains a 5-foot public access easement from Edgewater Lane to the public access parcel at APN 178-291-34.

APN 178-291-36 (Lot E) and APN 178-291-34 (Lot C) – These portions of the public walkway remain subject to the Public Trust Easement under AD 197 and are shown in the Exhibit 4.4 2003 Planning Areas within **Area A** and **Area D** respectively.

APN 178-291-35 (Lot D) – This is a portion of the public walkway, between Lot E and Lot C. Neither AD 162 nor AD 197 terminated the public trust interest within this parcel. This parcel is designated in the Exhibit 4.4 2003 Planning Areas as a portion of **Area A**. Staff understands that an Offer-To-Dedicate (OTD) exists on this parcel and that the Coastal Conservancy has requested that the City of Huntington Beach accept the offer. Staff is supportive of the City's accepting the OTD.

J₃

Huntington Beach LCP Am. 1-04
Huntington Harbour Bay Club Specific Plan
Page 32

Osvaldo Ramos, City of Huntington Beach
Reginald Vaughn, California Coastal Commission
Proposed LCP Amendment
Page 4

SD 2004-09-22.2

We believe that acceptance by the City of Huntington Beach of the access easements within APN 178-291-40 (Lot F), and APN 178-291-35 (Lot D) is consistent with the obligations that the City undertook in 1960 regarding maintaining adequate public access to the waters of Huntington Harbour.

Staff would oppose any effort to modify or remove any language of the currently certified Specific Plan that presently requires a CSLC jurisdictional determination with regard to the presence or absence of lands subject to the public trust except as to parcels identified as APN 178-291-26, 27, 29, 31, 38 and 39.

Please contact me at (916) 574-1879 if you have any questions regarding this matter.

Sincerely,


Susan M. Young
Public Land Management Specialist

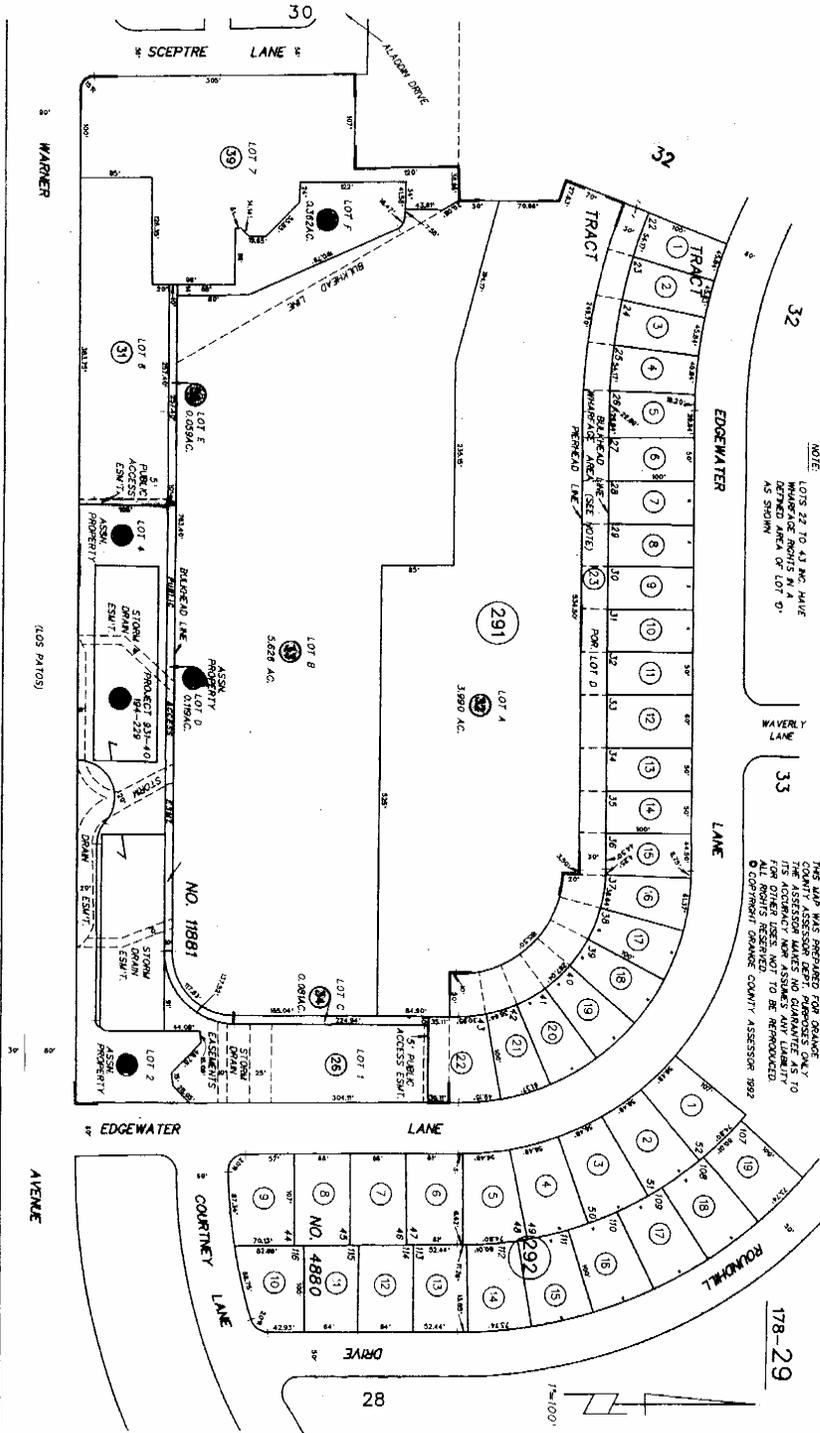
cc: Jon Van Coops, CCC, San Francisco

Attachments

J4

Huntington Beach LCP Am. 1-04
 Huntington Harbour Bay Club Specific Plan
 Page 33

Orange, CA 92667, 2003-2004 - 178-29, Sheet: 1 of 3



NOTE: LOTS 22 TO 43 INC HAVE WHOLESALE RIGHTS IN A COMMON AREA OF LOT 50.
 THE MAP WAS PREPARED FOR ORANGE COUNTY ASSESSOR DEPT. APPROXIMATE ONLY TO THE COUNTY ASSESSOR AND IS SUBJECT TO ANY LIABILITY FOR OTHER USES. NOT TO BE REPRODUCED OR COPIED WITHOUT ORANGE COUNTY ASSESSOR 9092

- MARCH 1971 TRACT NO. 4880 M.M. 172-12 TO 19 INC. NO-01 NOTE - ASSESSOR'S BLOCK & PARCEL NUMBERS SHOWN IN CIRCLES ASSESSOR'S MAP BOOK 178 PAGE 29 COUNTY OF ORANGE
- - PUBLIC TRUST TERMINATION PARCELS PER AD 162
 - - PUBLIC TRUST TERMINATION PARCELS PER AD 197
 - ⊙ - PARCELS SUBJECT TO THE PUBLIC TRUST EASEMENT PER AD 197
 - - PARCELS WITHIN PATENTED TLL 221 (NOT PART OF AD 162 OR AD 197)

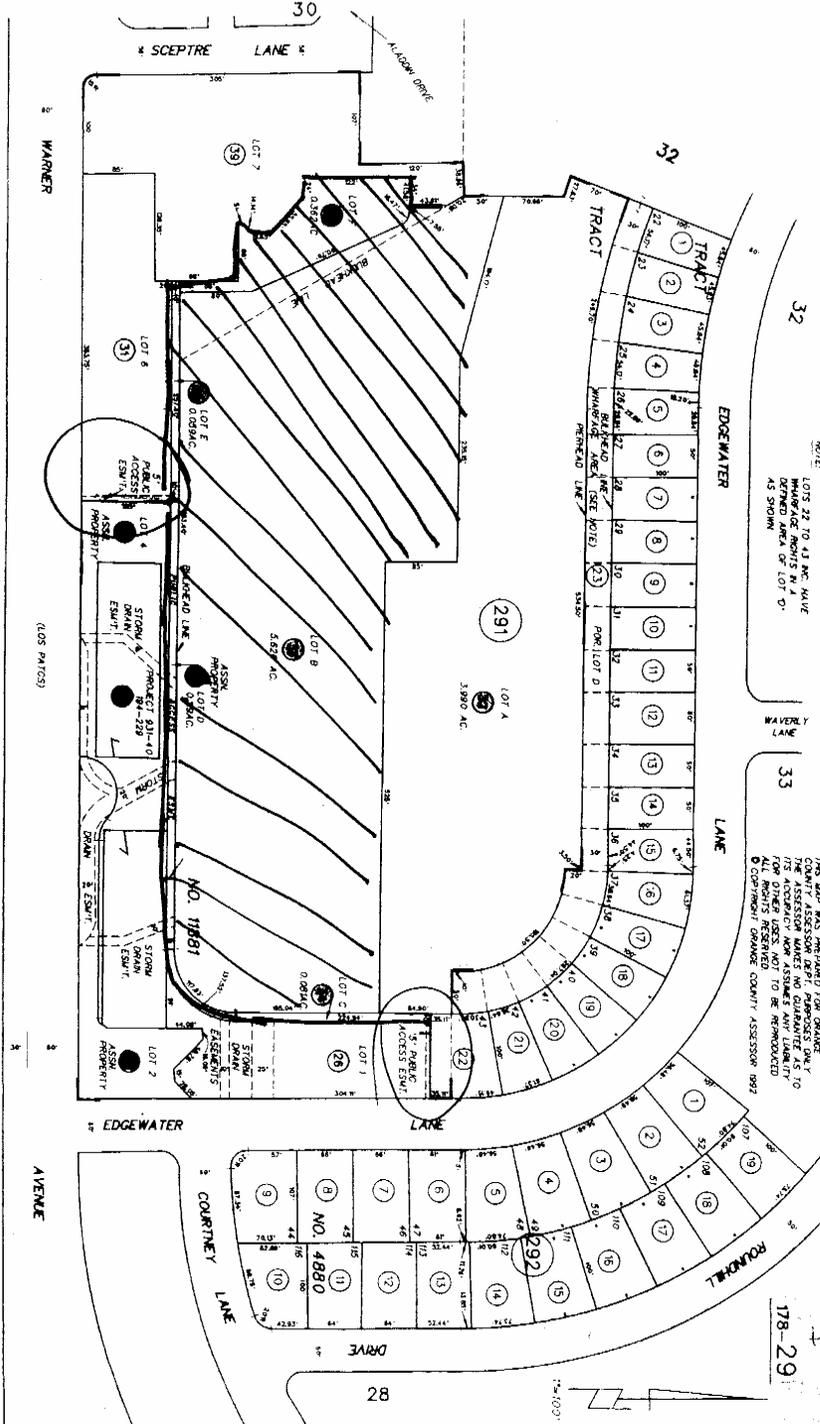
Public Trust
 Assessment
 (503-3417)

J5

Huntington Beach LCP Am. 1-04
 Huntington Harbour Bay Club Specific Plan
 Page 35

Orange, CA 2003-2004 - 178-29, Sheet 1 of 3

Area Subject to Public Trust and/or Public Access Easement



MARCH 1971 TRACT NO. 4880 M.M. 172-12 TO 19 INC. 110-01 NOTE - ASSESSOR'S BLOCK & PARCEL NUMBERS SHOWN IN CIRCLES

TRACT NO. 1881 M.M. 592-20 TO 23 INC. ASSESSOR'S MAP BOOK 178 PAGE 29 COUNTY OF ORANGE

178-29
 1-04
 LCP
 178-29

Development Regulations

DEVELOPMENT STANDARDS	PLANNING AREA			
	A (Public)	B (Residential)	C (Marina)	D (Residential)
Minimum Lot Size	N/A	3,100 sq. ft. (3,400 sq. ft. avg.)	N/A	N/A
Minimum Lot Frontage	N/A	40 ft. (30 ft. cul-de-sac and knuckle)	N/A	N/A
Maximum Number of Units	N/A	11 du	N/A	42 du
Maximum Building Height	15 ft.	Dwelling - 30 ft.; max. 2 stories except 3 rd level permitted <500 sq. ft.; min. 5/12 roof pitch; no decks above the second story	15 ft.	45 ft. (3 stories)
Maximum Site Coverage	15%	Accessory Structure - 15 ft.	15%	Shall Conform to the established building envelope in the 1983 Specific Plan (see Exhibits 6.2 & 6.3)
Maximum Floor Area Ratio	N/A	50% + 5% for covered porches, patio covers, balconies	N/A	
Minimum Building Separation	N/A	0.7	N/A	
Setback	N/A	6 ft.	N/A	
Front	25 ft. from any exterior property line; 5 ft. from any interior property line	Dwelling - 15 ft. + offsets in front facade Covered Porches (unenclosed) - 10 ft. Garage - 18 ft. Upper Story - Upper story setback shall be varied	25 ft. from any exterior property line; 5 ft. from any interior property line	
Rear		Dwelling - 15 ft.; 50% of building width may be at 13 ft. Garage - 3 ft.; 0 ft. if garage is designed to back to another garage		
Interior Side		8 ft. aggregate, min. 3 ft. 0 ft. permitted with min. 8 ft. on other side		

HUNTINGTON HARBOUR BAY CLUB

HNB LCPA 1-04 HARCSF

Exhibit M

Development Regulations	
Exterior Side	<p>10 ft.; includes min. 4 ft. landscape lettered lot (6 ft. between building and property line)</p> <p>Streets – The city shall review proposed street sections upon submittal of the tentative map and conditional use permit applications. Min. 28 ft. curb-to-curb may be permitted provided all units in the development are equipped with automatic sprinkler systems.</p> <p>Sidewalks/Parkways – Sidewalks shall be provided on both sides of the street. Min. 6 ft. landscape parkways may be provided on both sides of the street. Sidewalk widths shall be designed to Public Works Standards.</p> <p>Walls and Fences – Block walls required; may allow wrought iron element where appropriate</p> <p>Landscaping – Tree wells adjacent to landscape parkways on the street side of curb is encouraged, however shall not encroach into the min. 24 foot wide drive aisle. A 15 foot wide perimeter landscape area along Warner Ave. and Sceptre Ln. shall be provided. Also, see Chapter 232 (Landscaping) of the HBZSO.</p> <p>Design Standards – The design standards outlined in the Small Lot Development Standards section of the HBZSO shall be considered prior to development approval.</p>

Exhibit 6.1 Development Standards Chart

112

Huntington Beach LCP Am. 1-04
Huntington Harbour Bay Club Specific Plan
Page 38

Ms. Teresa Henry
Calif. Coastal Commission
200 Occangate, 10th Floor
Long Beach, Ca. 90802-4416

4-18-06

Dear Ms. Henry:

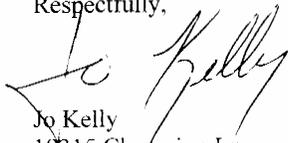
It has come to my attention that the Coastal Commission is considering zoning the Bay Club on Warner Ave in Huntington Beach "commercial". I'm surprised and disappointed to learn about this apparent decision. As a resident of Huntington Beach for 33 years and the widow of Jack Kelly who served on the city council for eight years, I strongly disagree with such a decision. Jack and I both believed that the downtown area was the perfect place for redevelopment and commercial use.

One has only to remember the Red Onion at Peters Landing and the huge outcry of the residents to the noise. Peters Landing has never had a long running successful restaurant nor has the Harbour Mall. The Bay Club location is not conducive to a restaurant or any other kind of commercial use. In my humble opinion it would not be supported by the public.

I've spoken to many residents along Edgewater and the neighbors who live next to the Club and they all are opposed to such a development. People are entitled to the quiet enjoyment of their environment and making this area commercial would be met with outrage by residents, et al.

I plead with you to reconsider your decision before it is too late.

Respectfully,



Jo Kelly
19315 Champion Ln.
Huntington Beach, Ca. 92648

JK:js

HNB LCPA 1-04
HHBCSP

Exhibit N